180 U. S. 224. *Virginia* v. *West Virginia* (1870) 11 Wall. 39 and *Virginia* v. *Tennessee* (1892) 148 U. S. 503, involved the question of ratification by Congress of agreements between the states. It was laid down that such ratification need not be expressed, but may be implied from the active acquiescence of Congress and will always be implied if possible. In the latter case is a radical dictum to the effect that those agreements only which tend to disturb the political power of the United States government need be ratified. In *New Hampshire* v. *Louisiana* and *New York* v. *Louisiana* (1882) 108 U. S. 76, the plaintiff states were only nominal parties in interest, and it was held that the rule of international law that a sovereign may assume the collection of its citizens' debts could not be utilized so as to make a state a nominal party and thus evade the Eleventh Amendment. Cf. *Louisiana* v. *Texas, supra.* In the most recent case of the series, Kansas claimed that Colorado had no right to interfere with the flow of the Arkansas River, as it had always come down to Kansas, whereas Colorado, relying upon the western doctrine of riparian rights, claimed that by prior appropriation she had acquired the right to use large quantities of the water for irrigation. The court applied neither the common law nor western rules, but on broad principles of justice decided that Colorado was justified in her diversion of the water, because the injury to Kansas was greatly disproportionate to the benefit to Colorado and was not so great as to materially affect the general welfare of the state. *Kansas* v. *Colorado,* supra.

Thus it appears from this study of the interstate cases that rules have been laid down on questions of procedure; jurisdiction; enjoining of suits in state courts; right of the United States to be heard in interstate controversies; respective rights of states when a river forms their dividing line; interstate nuisances; necessity and method of Congressional ratification of interstate agreements; evasion of the Eleventh Amendment by a state as nominal plaintiff; and respective rights of states as upper and lower riparian proprietors. To determine these questions rules of private and public law have been drawn upon as each was most applicable and when neither afforded an appropriate basis for the decision, the court has not hesitated to rely upon "broad principles of justice." That a most interesting branch of law is here developing is evident and it would seem that a better name could not be chosen than "interstate common law," as suggested by Mr. Justice Brewer in the principal case.

"DOING BUSINESS" WITHIN A STATE BY A FOREIGN CORPORATION.—A State may, even arbitrarily, refuse permission to a foreign corporation to transact business within its borders, *Waters Pierce Oil Co.* v. *Texas* (1900) 177 U. S. 28, and hence it may grant its permission upon such conditions as it pleases. *Paul* v. *Virginia* (1868) 8 Wall. 168; *Doyle* v. *Continental Insurance Co.* (1876) 94 U. S. 535; *Hooper* v. *California* (1895) 155 U. S. 648. If the corporation thereafter does business, it is deemed to have assented to such conditions, *St. Clair* v. *Cox* (1882) 106 U. S. 350, and their imposition raises *ipso facto* no question of constitutional law, *Doyle* v. *Continental Ins. Co., supra,* except in special cases, such as those involving interstate commerce. *Paul* v. *Virginia, supra;* 7 COLUMBIA LAW REVIEW 529.

These propositions being well established, it follows that the interpretation of the statutory phrases involving the conditions is a matter entirely for State decision and the rules thus laid down are binding on the Federal courts. See *Cooper M'f'g Co.* v. *Ferguson* (1885) 113 U. S. 727. This is strikingly illustrated by the case of *Chattanooga Building Association* v. *Denson* (1903) 189 U. S. 408. The definition of the Alabama courts, which had held that a foreign corporation which does a single act of business within the State violates the statute which forbids it to do "any business" before filing a certificate, *Farrior* v. *New England etc. Co.* (1889) 88 Ala. 275; *State* v. *Bristol Savings Bank* (1895) 108 Ala. 3, was widely at variance with the generally accepted definition of "doing business," i. e. continuous prosecution of business or an act done in contemplation of it. *Cooper M'f'g Co.* v. *Ferguson, supra.* The Supreme Court of the United States, however, in *Chattanooga Building Association* v. *Denson, supra,* was bound by the interpretation given by the Alabama courts and was forced to ignore the definition it favored.

On the other hand there is a special class of cases in which the Federal courts have exercised the right of determining the meaning of the phrase "doing business," namely, those involving the validity of service. *St. Clair* v. *Cox, supra; Lafayette Ins. Co.* v. *French* (1855) 18 How. 404; *Goldey* v. *Morning News* (1894) 156 U. S. 518; *Conley* v. *Mathieson Alkali Works* (1903) 190 U. S. 406. The early doctrine that a corporation could not be sued outside of the State of its incorporation since it could have no domicile or strictly legal residence there, was found highly inconvenient and unjust. *St. Clair* v. *Cox, supra.* It was therefore laid down that a corporation might be "found" beyond the borders of the State of its domicile and if so "found" might be served with process there. It was said to be "found" within the State when it "did business there." *Ex parte Schollenberger* (1877) 96 U. S. 369. This theory involved a rather difficult conception and one of at least arguable soundness, in the light of the orthodox "entity" theory of a corporation. The same result was then reached by the simpler and more satisfactory theory that a corporation which did business in a foreign State and was there represented by an agent assented to the condition that a valid service might be made upon that agent, equivalent to service upon the corporation. *St. Clair* v. *Cox, supra; Lafayette Insurance Co.* v. *French, supra.* "Such condition must not, however, encroach upon that principle of natural justice which requires notice of a suit to a party before he can be bound by it. It must be reasonable and the service provided for should be only upon such agents as may be properly deemed representatives of the foreign corporation." *St. Clair* v. *Cox, supra;* see *Lafayette Insurance Co.* v. *French, supra.* The question then being directly one of due process of law, is ultimately for the United States Supreme Court to determine: it must give a final interpretation to the words "doing business" and disregard the State rule if it does not insure a service valid under the definition laid down by it. *Mutual Life Insurance Co.* v. *Spratley* (1898) 172 U. S. 602. Accordingly in *Conley* v. *Mathieson Alkali Works, supra,* the Supreme Court refused to enforce §§432 and 1780 of the N. Y. Code Civ. Proc., and applying its own rule, held that neither the State nor Federal courts had jurisdiction because the corporation was not "doing business" in

New York. The ultimate meaning of the phrase "doing business" in the service cases, therefore, must be ascertained from the decisions of the Supreme Court, whereas in most other cases, the State decisions are controlling.

In a recent case in a Circuit Court, it was held that the presence of an officer of a corporation in a foreign State for the purpose of discussing a proposed adjustment of a single controversy, did not constitute a "doing of business" within the State such as to subject it to the jurisdiction of a Federal court therein by service of process on such officer. *Wilkins* v. *Queen City Savings Bank* (1907) 154 Fed. 173. The decision is clearly sound, *Goldey* v. *Morning News, supra; Mutual Life Insurance Co.* v. *Spratley, supra,* and stands with the case of *London Machinery Co.* v. *American etc. Co.* (1904) 127 Fed. 1008, in repudiating the decision in *Houston* v. *Filer & Stowell Co.* (1898) 85 Fed. 757, which seems to be the only Federal case in conflict with the Supreme Court rule.